

**COMMONWEALTH OF VIRGINIA
STANDARD CONTRACT**

ORIGINAL

Contract # 720C-04264-10R

Network Switching Services for Pharmacy Drugs Third Party Billing

This contract entered into this 3rd day of May, 2010, by RelayHealth, NDCHealth Corporation, 1564 N.E. Expressway, Atlanta, Georgia, 30329-2010, hereinafter referred to as "RelayHealth" or "Contractor" and Commonwealth of Virginia, Department of Behavioral Health and Developmental Services (DBHDS), P.O. Box 1797, Richmond, Virginia 23218, hereinafter referred to as "DBHDS". DBHDS shall be defined to include Central Office and the following facilities:

Central Virginia Training Center (participating pharmacy)
Southeastern Virginia Training Center (participating pharmacy)
Southside Virginia Training Center
Southwestern Virginia Training Center (participating pharmacy)
Catawba Hospital (participating pharmacy)
Southern Virginia Mental Health Institute (participating pharmacy)
Western State Hospital (participating pharmacy)
Commonwealth Center for Children & Adolescents
Central State Hospital
Southwestern Virginia Mental Health Institute (participating pharmacy)
Eastern State Hospital (participating pharmacy)
Northern Virginia Mental Health Institute (participating pharmacy)
Northern Virginia Training Center
Piedmont Geriatric Hospital (participating pharmacy)
Hiram Davis Medical Center (participating pharmacy)
Virginia Center for Behavioral Rehabilitation
DBHDS reserves the right to add or delete facility pharmacies to this contract.

WITNESSETH that RelayHealth and DBHDS, in consideration of the mutual covenants, promises and agreements herein contained, agree as follows:

SCOPE OF CONTRACT: RelayHealth shall provide the services to DBHDS as set forth in the Contract Documents.

PERIOD OF PERFORMANCE: From May 7, 2010 through May 6, 2015.

- 1.0 **ENGAGEMENT OF RELAYHEALTH.** Subject to the terms and conditions of this Contract, DBHDS agrees to purchase from RelayHealth, and RelayHealth agrees to use commercially reasonable efforts to provide DBHDS with, the service(s) listed in the table below (individually, a "Service" and collectively, the "Services"). The description of each Service provided under this Contract and any additional terms and conditions relating to such Service are set forth in the Exhibit referenced in the table below and attached hereto. RelayHealth reserves the right, as may be reasonably necessary, without liability to DBHDS, to suspend, revise, modify, or update any Service (in whole or in part) or the manner in which it is delivered, upon written notice to DBHDS.

Service Name	Service Description
Intelligent Network	Exhibit D
Pre and Post Editing Services	Exhibit E
AWP Resubmission (Report Option – Small Chain)	Exhibit F

- 1.1. **EXCLUSIVITY.** RelayHealth shall be DBHDS' exclusive provider of all the Services except the Intelligent Network. DBHDS shall not use or access any third party products or services that provide functionality identical or similar to the Services, except during any pharmacy software conversion period for all DBHDS participating pharmacies listed as "participating pharmacy" in this Contract. In lieu of terminating this Contract for material breach as provided for herein, RelayHealth may, in its sole discretion, increase the charges for the Services at any time upon written notice to DBHDS if DBHDS fails to comply with the foregoing exclusivity obligations. At RelayHealth's reasonable prior written request, DBHDS agrees to submit to periodic audits of its applicable books and records and submit reasonable documentation to RelayHealth to confirm DBHDS' compliance with this Section; such audits shall be conducted during normal business hours. The cost of such audits shall be borne by RelayHealth; provided, however, if an audit uncovers an intentional violation by DBHDS, DBHDS shall pay RelayHealth the fee that would have been charged by RelayHealth if DBHDS had complied with this Section, plus interest at the lesser of one and one half percent (1½%) or the lawful maximum per month since such error, plus the cost of such audit.

- 1.2. **USE OF THE SERVICES.** DBHDS agrees to utilize the Services in accordance with the terms and conditions of this Contract, RelayHealth's instructions and specifications, and any Payer-imposed instructions and specifications. DBHDS agrees to conform its pharmacy software system to any changes in the transaction specifications for the Services within a commercially reasonable time frame. RelayHealth shall have the right to terminate or restrict DBHDS' access to a Payer through RelayHealth upon notice by RelayHealth to DBHDS that RelayHealth's or DBHDS' access to such Payer has been restricted or terminated. For purposes of this Contract, "Payer" shall mean a Medicaid or Medicare agency, fiscal intermediary, fiscal agent, or commercial insurance carrier or its administrator. DBHDS shall provide RelayHealth with the necessary data in the proper format to enable RelayHealth to properly furnish the Services. DBHDS shall comply with all applicable laws and regulations relating to the Services now or hereafter imposed. DBHDS acknowledges and agrees that: (i) any claim transmitted to RelayHealth hereunder is subject to the prospective phase of the applicable Service before submission to the Payer; and (ii) the accuracy of any reports provided in conjunction with the Services shall consequently be negatively affected if DBHDS fails to transmit all of its transactions through RelayHealth. DBHDS agrees to provide education, training, and first level customer support for the Services to all of its pharmacy locations, such support shall include, without limitation, taking initial support inquiries from its pharmacy locations, diagnosing the nature of the problem, and resolving such problem, where possible, prior to contacting RelayHealth to assist in such resolution. Services provided by RelayHealth do not include any equipment, devices or charges for the transmission or receipt of Services by DBHDS. DBHDS shall be solely responsible for establishing connectivity to the Services acceptable to RelayHealth.

Modification of established connectivity without RelayHealth's prior written consent shall be deemed to be a material breach of this Contract.

1.3. **EQUIPMENT.** RelayHealth shall not provide any equipment to DBHDS.

1.4. **CHARGES.**

1.4.1. Charges for the Services shall be as set forth on Exhibit A attached hereto. In addition to the charges set forth on Exhibit A, DBHDS shall reimburse RelayHealth for all fees incurred by RelayHealth from a Payer or other network service supplier in connection with providing the Services to DBHDS. To the extent that the charges are based on usage (i.e. transaction based), the amount of usage of Services shall be the amount recorded by RelayHealth's computer system. DBHDS represents that it is exempt from State, Federal and Local taxes. RelayHealth shall take all action required to cause the provision of the Services hereunder to be treated as a tax-exempt transaction, and in no event shall DBHDS be responsible for any sales, use, property, gross receipts, or similar taxes levied against any party to this Agreement. Upon execution of this Contract, DBHDS shall provide RelayHealth with certificates evidencing its tax-exempt status.

1.4.2. In addition to any other rights to increase the charges for the Services as set forth in this Contract, RelayHealth shall have the right to modify the charges paid by DBHDS: (i) to offset the imposition of, or increase in, any fees (including access or transaction fees) charged by a service supplier, Payer, intermediary, communications common carrier or timesharing supplier; or (ii) if any change in the rules, regulations or operating procedures of any service supplier or any cognizant federal, state or local governmental agency or regulatory authority results in an increase in the cost of providing the Services. Any such increase shall become effective for DBHDS on the same day as such increase becomes effective for RelayHealth.

1.5. **PAYMENT TERMS.** RelayHealth will invoice DBHDS monthly for all charges incurred by DBHDS, including any charges incurred by RelayHealth on DBHDS' behalf for DBHDS' use of the Services. All payments shall be made in accordance with the Virginia Prompt Payment Act. RelayHealth will not recognize any restrictive endorsement such as "paid in full" on any payment checks from DBHDS; the amount of any such check will be applied to DBHDS' outstanding balance and will not serve as a settlement of the account. All payments shall be made in United States dollars.

1.6. **TERMINATION.**

1.6.1. In addition to any other termination rights set forth in this Contract, in the event either party commits a material breach of any one (1) or more provisions contained in this Contract, the other party may provide written notice of such breach to the breaching party. The breaching party shall have thirty (30) days to remedy any non-monetary breach and ten (10) days to remedy any monetary breach. If the breaching party fails to remedy the breach during such thirty (30) day or ten (10) day notice period, as applicable, the other party shall have the right to immediately terminate this Contract. In lieu of terminating this Contract as provided for in this Subsection, RelayHealth may elect to suspend the provision of the Services to DBHDS until such time as DBHDS has cured the breach to RelayHealth's satisfaction.

1.6.2. Notwithstanding anything contrary contained in this Contract, RelayHealth may terminate this Contract immediately upon written notice to DBHDS if DBHDS fails to comply with any provisions relating to the Licensed Products (as defined below).

- 1.6.3. At all times, RelayHealth's provision of the Services shall be subject to: (i) then-current applicable laws and regulations; (ii) RelayHealth's contractual obligations to third parties; and (iii) any action or threatened action by third parties arising from or related to the Services. If, in RelayHealth's sole and exclusive judgment, any of the foregoing has or will have an adverse effect upon RelayHealth or the Services, RelayHealth shall have the right to terminate this Contract or the provision of a particular Service, in each case, in whole or in part upon sixty (60) days written notice to DBHDS.
- 1.6.4. The expiration or termination of this Contract for any reason shall not relieve or discharge either party from any obligation which accrued prior to such expiration or termination; shall not relieve any party that has breached this Contract from liability for damages resulting from such breach; and shall not destroy or diminish the binding force and effect of any of the provisions of this Contract that expressly, or by reasonable implication, come into or continue in effect on or after such expiration or termination.
- 1.7. **LICENSED PRODUCTS.** In the event that DBHDS is receiving software from RelayHealth in connection with the Services, RelayHealth grants to DBHDS a nonexclusive, nontransferable license to use such software and any modifications thereto (the "Software") and written documentation therefore (collectively with the Software, the "Licensed Products") only in connection with the Services and solely for DBHDS' internal business use and for no other purpose. The license granted herein for each item of the Licensed Products is effective upon delivery and continues for the term of this Contract. Subject to the limited license granted herein, at all times, the Licensed Products (including any copies thereof) shall remain the exclusive property of RelayHealth. DBHDS shall not transfer, rent, lease, sublicense, convey, assign, translate, reverse engineer, decompile, disassemble, or modify the Licensed Products. DBHDS shall not make copies of the Licensed Products without the prior written consent of RelayHealth. DBHDS shall display or use such copyright, patent, trademark, or other proprietary rights notices on the Licensed Products as RelayHealth may reasonably require. DBHDS shall not allow (i) any third party to obtain the Licensed Products, (ii) any use of the Licensed Products in any manner which would allow the general public access, or (iii) any use of the Licensed Products for the benefit of any third party. RelayHealth and/or its authorized agent shall have the right with advance prior notice to DBHDS to review DBHDS' version of the Software and/or related records to ensure compliance with the license granted in this Section, at a mutually agreeable date and time. Immediately after the expiration or termination of this Contract for any reason, DBHDS will return all copies and partial copies of the Licensed Products to RelayHealth. The Licensed Products shall be deemed Confidential Information of RelayHealth and shall be subject to the confidentiality provisions of this Contract. In no event shall this provision be construed to require RelayHealth to provide DBHDS with any Licensed Products under this Contract.
- 1.8. **RELAYHEALTH WARRANTIES.**
- 1.8.1. RelayHealth agrees to use commercially reasonable efforts to: (i) provide the Services in a prompt and efficient manner using due care; and (ii) maintain its own equipment, proprietary systems and programs used in connection with providing the Services. RelayHealth agrees that it will, at its expense, use commercially reasonable efforts to correct any errors caused solely by RelayHealth's employees or agents or which are due solely to the malfunction of RelayHealth's computers, operating systems or programs used in connection with providing the Services; provided that DBHDS gives RelayHealth specific written notice of such errors within sixty (60) days after the Services are performed.

- 1.8.2. RelayHealth warrants that for a period of ninety (90) days from the initial delivery of any Licensed Products to DBHDS the Licensed Products will, when properly installed and used in accordance with the documentation supplied to DBHDS, perform substantially in accordance with the specifications for the Licensed Products as described in the applicable documentation. As DBHDS' sole remedy for breach of the foregoing warranty, RelayHealth shall use commercially reasonable efforts to correct any reproducible error in the Licensed Product constituting a breach of the foregoing warranty at no additional charge.
- 1.8.3. THE WARRANTIES SET FORTH IN THIS SECTION ARE EXCLUSIVE AND ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR USE FOR A PARTICULAR PURPOSE OR ANY WARRANTIES ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE. RELAYHEALTH DOES NOT WARRANT THAT USE OF THE LICENSED PRODUCTS OR THE SERVICES WILL BE UNINTERRUPTED, VIRUS-FREE OR ERROR-FREE OR THAT ALL ERRORS WILL BE CORRECTED.
- 1.9. **DBHDS WARRANTIES.** DBHDS represents and warrants that it has obtained all consents or authorizations necessary to receive the Services and to provide RelayHealth with any necessary data to enable RelayHealth to properly furnish the Services.
- 1.10. **INTELLECTUAL PROPERTY INFRINGEMENT.**
- 1.10.1. **Duty to Defend.** RelayHealth will defend, indemnify, and hold DBHDS harmless from any action or other proceeding brought against DBHDS to the extent that it is based on a claim that (a) the use of any RelayHealth Services or Licensed Products delivered under this Contract infringes any U.S. copyright or U.S. patent or (b) the RelayHealth Services or Licensed Products incorporate any misappropriated trade secrets. RelayHealth will pay costs and damages finally awarded against DBHDS as a result thereof; provided, that DBHDS (i) notifies RelayHealth of the claim within thirty (30) days, and (ii) provides RelayHealth with all reasonably requested cooperation, information and assistance.
- 1.10.2. **Exclusions.** RelayHealth will have no obligations under Subsection 1.10.1 above with respect to claims arising from: (i) RelayHealth Services or Licensed Products modifications that were not performed by RelayHealth or authorized by RelayHealth in writing, (ii) custom interfaces, file conversions, or other programming for which RelayHealth does not exclusively develop the specifications or instructions, (iii) use of any RelayHealth Services or Licensed Products in combination with products or services not provided by RelayHealth, if use of the RelayHealth Services or Licensed Products alone would not result in liability under Subsection 1.10.1 above, or (iv) any use of the RelayHealth Services or Licensed Products not authorized by this Contract or the Documentation.
- 1.10.3. **Infringement Remedies.** If a claim of infringement or misappropriation for which DBHDS is entitled to be indemnified under Subsection 1.10.1 above arises, then RelayHealth may, at its sole option and expense: (i) obtain for DBHDS the right to continue using such RelayHealth Services or Licensed Products, (ii) replace or modify such RelayHealth Services or Licensed Products to avoid such a claim, provided that the replaced or modified RelayHealth Services or Licensed Products are substantially equivalent in function to the affected RelayHealth Services or Licensed Products, or (iii) take possession of the affected RelayHealth Licensed Products or terminate the affected RelayHealth Services, and terminate DBHDS' rights and RelayHealth's obligations under this Contract with respect to such RelayHealth Services or Licensed Products. Upon any such

termination, RelayHealth will refund to DBHDS a pro-rated portion of any prepaid fees with respect to that RelayHealth Services or Licensed Products.

- 1.10.4. Exclusive Remedy. THE FOREGOING ARE RELAYHEALTH'S SOLE AND EXCLUSIVE OBLIGATIONS, AND DBHDS'S SOLE AND EXCLUSIVE REMEDIES, WITH RESPECT TO INTELLECTUAL PROPERTY INFRINGEMENT OR TRADE SECRET MISAPPROPRIATION.

1.11. **LIMITATION OF LIABILITY.**

RelayHealth shall not be responsible in any manner for errors or failures of proprietary systems, programs, software, operational systems or networks other than those of RelayHealth. Due to the nature of the Services, DBHDS agrees that in no event will RelayHealth be liable for any claim, loss, liability, correction, cost, damage or expense caused by RelayHealth's performance or failure to perform hereunder which is not reported by DBHDS within thirty (30) days of such performance or failure to perform.

- 1.11.1. Total Damages. RELAYHEALTH'S TOTAL CUMULATIVE LIABILITY UNDER, IN CONNECTION WITH, OR RELATED TO THIS CONTRACT WILL BE LIMITED TO THE TOTAL FEES PAID (LESS ANY REFUNDS OR CREDITS) BY DBHDS TO RELAYHEALTH FOR THE APPLICABLE PRODUCT OR SERVICE GIVING RISE TO THE CLAIM DURING THE 1-MONTH PERIOD PRECEDING THE DATE OF THE CLAIM, WHETHER BASED ON BREACH OF CONTRACT, WARRANTY, TORT, PRODUCT LIABILITY, OR OTHERWISE.
- 1.11.2. Exclusion of Damages. IN NO EVENT WILL RELAYHEALTH, ITS THIRD PARTY DATA PROVIDERS OR PROGRAM SPONSORS BE LIABLE TO DBHDS UNDER, IN CONNECTION WITH, OR RELATED TO THIS CONTRACT FOR ANY SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS OR LOSS OF GOODWILL, WHETHER BASED ON BREACH OF CONTRACT, WARRANTY, TORT, PRODUCT LIABILITY, OR OTHERWISE, AND WHETHER OR NOT RELAYHEALTH HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.
- 1.11.3. Material Consideration. THE PARTIES ACKNOWLEDGE THAT THE FOREGOING LIMITATIONS ARE A MATERIAL CONDITION FOR THEIR ENTRY INTO THIS AGREEMENT.

- 1.12. **PROFESSIONAL RESPONSIBILITY AND CLINICAL CONTENT DISCLAIMER.** DBHDS ACKNOWLEDGES AND AGREES THAT ANY CLINICAL CONTENT FURNISHED BY RELAYHEALTH HEREUNDER, INCLUDING BUT NOT LIMITED TO RXSAFETY ADVISOR, (WHETHER SEPARATELY OR INCLUDED WITHIN A PRODUCT OR SERVICE) IS AN INFORMATION MANAGEMENT AND DIAGNOSTIC TOOL ONLY AND THAT IT'S USE CONTEMPLATES AND REQUIRES THE INVOLVEMENT OF TRAINED INDIVIDUALS. DBHDS FURTHER ACKNOWLEDGES AND AGREES THAT RELAYHEALTH HAS NOT REPRESENTED ITS PRODUCTS AND SERVICES AS HAVING THE ABILITY TO DIAGNOSE DISEASE, PRESCRIBE TREATMENT, OR PERFORM ANY OTHER TASKS THAT CONSTITUTE THE PRACTICE OF MEDICINE OR PHARMACY. THE PARTIES AGREE THAT, AS BETWEEN DBHDS AND RELAYHEALTH, DBHDS IS RESPONSIBLE FOR THE ACCURACY AND QUALITY OF DBHDS DATA AS INPUT INTO THE PRODUCTS AND SERVICES. DBHDS ACKNOWLEDGES THAT RELAYHEALTH: (A) HAS NO CONTROL OF OR RESPONSIBILITY FOR DBHDS'S USE OF THE CLINICAL CONTENT, AND (B) HAS NO KNOWLEDGE OF THE SPECIFIC OR UNIQUE CIRCUMSTANCES UNDER WHICH THE CLINICAL CONTENT PROVIDED MAY BE USED BY THE DBHDS. THE PARTIES AGREE THAT RELAYHEALTH DOES NOT PROVIDE MEDICAL OR PHARMACY SERVICES TO PATIENTS AND IS NOT ENGAGED IN THE PRACTICE OF MEDICINE OR PHARMACY, AND THAT DBHDS'S USE OF THE PRODUCTS AND SERVICES

DOES NOT ABSOLVE THE DBHDS OF ITS OBLIGATION TO EXERCISE INDEPENDENT PROFESSIONAL JUDGMENT IN RENDERING HEALTHCARE SERVICES TO PATIENTS. DBHDS ACKNOWLEDGES THAT THE PROFESSIONAL DUTY TO THE PATIENT IN PROVIDING HEALTHCARE SERVICES LIES SOLELY WITH THE HEALTHCARE PROFESSIONAL PROVIDING THE SERVICES. RELAYHEALTH, ITS THIRD PARTY DATA PROVIDERS AND PROGRAM SPONSORS MAKE NO WARRANTY AS TO THE NATURE OR QUALITY OF THE CONTENT OF RESULTS, MESSAGES OR INFORMATION SENT BY OR TO DBHDS OR ANY THIRD PARTY USERS OF THE SERVICES. INFORMATION SUBMITTED BY A PAYER THROUGH RELAYHEALTH IS NO GUARANTEE OF PAYMENT AND DOES NOT CONSTITUTE A PROMISE TO PAY. ELIGIBILITY INFORMATION IS SUBJECT TO CHANGE. WAITING PERIODS MAY APPLY.

- 1.13. **INTERNET DISCLAIMER.** CERTAIN PRODUCTS AND SERVICES PROVIDED BY RELAYHEALTH MAY UTILIZE THE INTERNET. RELAYHEALTH DOES NOT WARRANT THAT SUCH SERVICES WILL BE UNINTERRUPTED, ERROR-FREE, OR COMPLETELY SECURE. RELAYHEALTH DOES NOT AND CANNOT CONTROL THE FLOW OF DATA TO OR FROM RELAYHEALTH'S OR DBHDS'S NETWORK AND OTHER PORTIONS OF THE INTERNET. SUCH FLOW DEPENDS IN LARGE PART ON THE INTERNET SERVICES PROVIDED OR CONTROLLED BY THIRD PARTIES. ACTIONS OR INACTIONS OF SUCH THIRD PARTIES CAN IMPAIR OR DISRUPT DBHDS'S CONNECTIONS TO THE INTERNET (OR PORTIONS THEREOF). ACCORDINGLY, RELAYHEALTH DISCLAIMS ANY AND ALL LIABILITY RESULTING FROM OR RELATED TO SUCH EVENTS.

- 1.14. **Compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the regulations promulgated thereunder:**

Except as otherwise limited in this contract, RelayHealth may use or disclose protected health information (PHI) to perform functions, activities, or services for, or on behalf of, DBHDS as specified in this contract. In performance of contract services, RelayHealth agrees to:

- Not use or further disclose protected health information (PHI) other than as permitted or required by the terms of this contract or as required by law;
- Use appropriate safeguards to prevent use or disclosure of PHI other than as permitted by this contract;
- Report to DBHDS any use or disclosure of PHI not provided for by this Contract of which it becomes aware;
- Implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of electronic Protected Health Information that it creates, receives, maintains or transmits on behalf of DBHDS as required by the HIPAA Security Rule, 45 C.F.R. Parts 160, 162, and 164 and the American Recovery and Reinvestment Act (P.L. 111-5) when effective;
- Ensure that any agent, including a subcontractor, to whom it provides electronic Protected Health Information agrees to implement reasonable and appropriate safeguards to protect it;
- Report to DBHDS any security incident of which it becomes aware.

- RelayHealth shall notify DBHDS of a breach of unsecured PHI on the first (1st) day on which such breach is known by RelayHealth or an employee, officer or agent of RelayHealth other than the person committing the breach, or as soon as possible following the first day on which RelayHealth or an employee, officer or agent of RelayHealth other than the person committing the breach should have known by exercising reasonable diligence of such breach. Notification shall include, to the extent possible, the identification of each individual whose unsecured PHI has been, or is reasonably believed by the RelayHealth to have been, accessed, acquired, used or disclosed during the breach. RelayHealth shall also provide DBHDS with any other available information at the time RelayHealth makes notification to DBHDS or promptly thereafter as information becomes available. Such additional information shall include (i) a brief description of what happened, including the date of the breach; (ii) a description of the types of unsecured PHI that were involved in the breach; (iii) any steps RelayHealth believes individuals should take to protect themselves from potential harm resulting from the breach; and (iv) a brief description of what RelayHealth is doing to investigate the breach, mitigate harm to individuals, and protect against any future breaches.

For purposes of this paragraph, unsecured PHI means PHI which is not encrypted or destroyed. Breach means the acquisition, access, use or disclosure of PHI in a manner not permitted by the HIPAA Privacy Rule or this contract which compromises the security or privacy of the PHI by posing a significant risk of financial, reputational, or other harm to the individual.

- Impose the same requirements and restrictions contained in this contract on its subcontractor and agents to whom RelayHealth provides PHI received from, or created or received by RelayHealth on behalf of the DBHDS;
- Provide access to PHI contained in a designated record set to DBHDS, in the time and manner designated by DBHDS, or at the request of DBHDS, to an individual in order to meet the requirements of 45 CFR 164.524.
- Make available PHI for amendment and incorporate any amendments to PHI in its records at the request of DBHDS;
- Document and provide to DBHDS information relating to disclosures of PHI as required for DBHDS to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR 164.528;
- Make its internal practices, books, and records relating to use and disclosure of PHI received from, or created or received by RelayHealth on behalf of DBHDS, available to the Secretary of the U.S. Department of Health and Human Services Secretary for the purposes of determining compliance with 45 CFR Parts 160 and 164, subparts A and E;
- At termination of the contract, if feasible, return or destroy all PHI received from, or created or received by RelayHealth on behalf of DBHDS that RelayHealth still maintains in any form and retain no copies of such information or, if such return or destruction is not feasible, extend the protections of the contract to the information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.

RelayHealth may use or disclose PHI received from DBHDS, if necessary, to carry out its legal responsibilities and for the proper management and administration of its business. RelayHealth may disclose PHI for such purposes if the disclosure is required by law, or if RelayHealth obtains reasonable assurances from the person to whom the PHI is disclosed that it will be held confidentially, that it will be used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and that person will notify the RelayHealth of any instances of which it is aware in which the confidentiality of the information has been breached.

- RelayHealth shall use commercially reasonable efforts to exclude DBHDS NPIs from data aggregation services, including use of PHI for statistical compilations, reports, and research. Exceptions may be requested by RelayHealth and approved in writing by DBHDS for specific uses of data.

1.15. **FORCE MAJEURE.** Except for DBHDS' monetary obligations, neither party shall be liable under, or in default of, this Contract for failure to perform its obligations under this Contract if such failure arises out of causes beyond such party's reasonable control and without its fault or negligence. Such causes or conditions shall include, but shall not be limited to, acts of God or the public enemy, acts of a government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, shortages of labor or materials, freight embargoes, unusually severe weather, electrical power failures, telecommunications outages, riots, or wars. If RelayHealth's failure to provide the Services is caused by the default of a subcontractor and such default arises out of causes beyond the control of both RelayHealth and the subcontractor, RelayHealth shall not be liable unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit RelayHealth to fulfill its obligations hereunder.

1.16. **MISCELLANEOUS.**

- 1.16.1. The relationship of RelayHealth to DBHDS is that of independent contractor; in no event is the establishment of a legal partnership, agency or joint venture to be implied. Neither party shall have any authority, whether express or implied, to assume or create any obligation on behalf of the other party nor shall a party issue or cause to be issued any quotations or draft any letters or documents over the name of such party.
- 1.16.2. The section headings contained in this Contract are included for reference purposes only and are not intended to define, limit or describe the scope or intent of the particular provision to which they refer. Any reference in this Contract to a section or subsection shall be deemed to include a reference to any subsidiary sections whenever the context requires.
- 1.16.3. Masculine, feminine and neuter terms shall be interchangeable (and shall include corporation, partnership, or other entity) and shall be singular and plural, where the context makes a change of gender or number appropriate.
- 1.16.4. This Contract contains the full understanding of the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings and communications, whether oral or written, between the parties with respect to such subject matter.
- 1.16.5. No provision of this Contract shall be deemed waived by a party unless such waiver is in writing and signed by the party against whom enforcement is sought. The waiver by any party of a breach or violation of any provision of this Contract shall not operate or be construed as a waiver of any subsequent breach of such provision or any other provision of this Contract.

- 1.16.6. This Contract may be amended only in the form of Contract Modification Agreements issued by DBHDS and signed by both parties, except that: (i) charges for the Services may be modified as set forth herein; and (ii) RelayHealth may mail DBHDS a notice describing amendments to this Contract for purposes of compliance with Payer-imposed conditions.
- 1.16.7. If any provision of this Contract is determined to be invalid or unenforceable, such provision shall be deemed severable from the remainder of this Contract and shall not cause the invalidity or unenforceability of the remainder of this Contract.
- 1.16.8. Except as otherwise provided in this Contract, notices required to be given pursuant to this Contract shall be effective when received, and shall be sufficient if given in writing, hand delivered, sent by overnight courier or First Class United States Mail, postage prepaid. Refusal to accept delivery will be deemed receipt. Notices shall be sent to the name and address set forth on the signature page hereto. A party may change its notice address for purposes of this Contract by giving written notice to the other party.
- 1.16.9. Neither party to this Contract may assign its rights or obligations under this Contract without the express written consent of the other party.

2.0 GENERAL TERMS AND CONDITIONS

2.1. APPLICABLE LAW AND COURTS: This contract shall be governed in all respects by the laws of the Commonwealth of Virginia. The DBHDS and the Contractor are encouraged to resolve any issues in controversy arising from the award of the contract or any contractual dispute using Alternative Dispute Resolution (ADR) procedures (Code of Virginia, § 2.2-4366). Contractor shall comply with applicable federal, state and local laws and regulations.

2.2. ANTI-DISCRIMINATION: Contractor certifies to the Commonwealth of Virginia that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the Virginia Public Procurement Act (VPPA).

In every contract over \$10,000 the provisions in 1. and 2. below apply:

2.2.1. During the performance of this contract, the contractor agrees as follows:

2.2.1.1. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

2.2.1.2. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.

2.2.1.3. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.

2.2.2. The contractor will include the provisions of 1. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

2.3. ETHICS IN PUBLIC CONTRACTING: Contractor certifies that their contract is made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other Offeror, supplier, manufacturer or subcontractor in connection with their contract, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

2.4. IMMIGRATION REFORM AND CONTROL ACT OF 1986: Contractor certifies that they do not and will not during the performance of this contract employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986.

2.5. DEBARMENT STATUS: Contractor certifies that they are not currently debarred from submitting proposals on contracts by any agency of the Commonwealth of Virginia, nor are they an agent of any person or entity that is currently debarred from submitting proposals on contracts by any agency of the Commonwealth of Virginia.

2.6. PRECEDENCE OF TERMS: The following GENERAL TERMS AND CONDITIONS APPLICABLE LAWS AND COURTS, ANTI-DISCRIMINATION, ETHICS IN PUBLIC CONTRACTING, IMMIGRATION REFORM AND CONTROL ACT OF 1986, and DEBARMENT STATUS shall apply in all instances. In the event there is a conflict between any of the other General Terms and Conditions and any Special Terms and Conditions in this Contract, the Special Terms and Conditions shall apply.

2.7. DRUG FREE WORKPLACE: During the performance of this contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a Contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

2.8. EVA BUSINESS-TO-GOVERNMENT VENDOR REGISTRATION: The eVA Internet electronic procurement solution, website portal www.eVA.virginia.gov, streamlines and automates government purchasing activities in the Commonwealth. The eVA portal is the gateway for vendors to conduct business with state agencies and public bodies. All vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet e-procurement solution either through the eVA Basic Vendor Registration Service or eVA Premium Vendor Registration Service. All Contractors must register in eVA.

2.8.1. eVA Basic Vendor Registration Service: \$25 Annual Registration Fee plus the appropriate order Transaction Fee specified below. eVA Basic Vendor Registration Service includes electronic order receipt, vendor catalog posting, on-line registration, electronic bidding, and the ability to research historical procurement data available in the eVA purchase transaction data warehouse.

2.8.2. eVA Premium Vendor Registration Service: \$25 Annual Registration Fee plus the appropriate order Transaction Fee specified below. eVA Premium Vendor Registration Service includes all benefits of the eVA Basic Vendor Registration Service plus automatic email or fax notification of solicitations and amendments.

The Vendor Transaction Fee is:

DMBE-certified Small Businesses: 1%, capped at \$500 per order.

Businesses that are not DMBE-certified Small Businesses: 1%, capped at \$1,500 per order.

3.0 SPECIAL TERMS AND CONDITIONS:

- 3.1. **ADVERTISING:** Contractor shall not state in any of its advertising or product literature that the Commonwealth of Virginia or any agency or institution of the Commonwealth has purchased or uses its products or services, without the prior written approval of DBHDS.
- 3.2. **AUDIT:** Contractor shall retain all books, records, and other documents relative to this contract for five (5) years after final payment, or until audited by the Commonwealth of Virginia, whichever is sooner. The Agency, its authorized agents, and/or state auditors shall have, with reasonable prior written request, access to and the right to examine any applicable materials no more than once per year.
- 3.3. **AVAILABILITY OF FUNDS:** It is understood and agreed between the parties herein that the public body shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this Contract.
- 3.4. **PRIME CONTRACTOR RESPONSIBILITIES:** If a subcontractor is approved by DBHDS, Contractor shall be responsible for completely supervising and directing the work under this contract for any and all subcontractors that he may utilize, using his best skill and attention. Subcontractors who perform work under this contract shall be responsible to the prime contractor. Contractor agrees that he is as fully responsible for the acts and omissions of his subcontractors and of persons employed by them as he is for the acts and omissions of his own employees.
- 3.5. **SUBCONTRACTS:** No portion of the work shall be subcontracted without prior written consent of DBHDS. In the event that the Contractor desires to subcontract some part of the work specified herein, the contractor shall furnish DBHDS the names, qualifications and experience of their proposed subcontractors. The Contractor shall, however, remain fully liable and responsible for the work to be done by its subcontractor(s) and shall assure compliance with all requirements of the contract.
- 3.6. **AUTHORITIES:** Nothing in this Contract shall be construed as authority for either party to make commitments which will bind the other party beyond the Scope of Work contained herein. Furthermore, the Contractor shall not assign, sublet, or subcontract any work related to this Contract or any interest he/she/it may have herein without the express written consent of the DBHDS, except as specified herein.

- 3.7. **eVA BUSINESS-TO-GOVERNMENT CONTRACTS AND ORDERS:** The contract will result in multiple purchase orders with the eVA transaction fee specified below assessed for each order.

The Vendor Transaction Fee is:

DMBE-certified Small Businesses: 1%, Capped at \$500 per order.

Businesses that are not DMBE-certified Small Businesses: 1%, Capped at \$1,500 per order.


The eVA transaction fee will be assessed approximately 30 days after each purchase order is issued. Any adjustments (increases/decreases) will be handled through eVA change orders.

Internet electronic procurement solution, website portal www.eva.virginia.gov, streamlines and automates government purchasing activities in the Commonwealth. The portal is the gateway for vendors to conduct business with state agencies and public bodies.

Vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet e-procurement solution.

IN WITNESS WHEREOF, the parties have caused this Contract to be duly executed intending to be bound thereby.

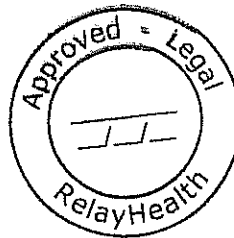
RelayHealth, NDCHealth Corporation

By: 


NAME: **Jeff Felton**
President, Pharmacy Solutions

TITLE: _____

Date: 5-4-10



Department of Behavioral Health and Developmental Services

By: 
Joy S. Lazarus
Director, Office of Administrative Services

Date: 5/6/10

Exhibit A
Statement of Charges

1. Intelligent Network Charges.

Dial Up Charges: \$0.035 per transaction

2. Pre and Post Editing Services Charges.

<u>Transaction Type</u>	<u>Per Transaction Rate</u>
Approved:	
Managed Care/Third Party	\$0.04 + Contracted Network Charge
Cash Transactions	\$0.00 + \$0.00 Network Charge
Rejected by RelayHealth Edit:	
Managed Care/Third Party	\$0.00 + \$0.00 Network Charge
Cash Transactions	\$0.00 + \$0.00 Network Charge
Rejected by Third Party/Medicaid	
Managed Care/Third Party	\$0.00 + Contracted Network Charge
Cash Transactions	\$0.00 + \$0.00 Network Charge
Reversals:	
Managed Care/Third Party	\$0.00 + Contracted Network Charge
Cash Transactions	\$0.00 + \$0.00 Network Charge

3. AWP Resubmission (Report Option – Small Chain)

\$0.01 per transaction.

Exhibit B**Department of Behavioral Health and Developmental Services Facility Pharmacy Listing**

FACILITY PHARMACY LISTING (Please complete the following information for each facility pharmacy that will use the Services under this Contract.)

Facility Name	NCPDP Number	NPI Provider Number	Medicaid Provider Number	Facility Address	Contact Person	Telephone Number	Facsimile Number
Central Virginia Training Center Pharmacy	4838946	1710010046	010227445	521 Colony Rd., Rt. 210 E. Madison Heights, VA 24572	Teresa Pigue	(434)-947-6719	434-947-2988
Southeastern Va Training Center Pharmacy	4833085	1295834315	008502137	2100 Steppingstone Square, Chesapeake, VA 23320	Jennifer Dauer	(757)-424-8256	757-424-8705
Hiram Davis Medical Center Pharmacy	4838996	1275511768	010268761	26317 West Washington Street, Petersburg, VA 23805	Tonya Henderson	(804) 524-7346	804-524-7902
Southwestern Virginia Training Center Pharmacy	4815619	1497763098	008509654	160 Training Center Road, Hillsville, VA 24343	Paullette Sinnett	(276) 728 9081	276-728-4527
Catawba Hospital Pharmacy	4812776	1639180359	010227461	5525 Catawba Hospital Drive, Catawba, VA 24070	Mark Knick	(540) 375-4310	540-375-4708
Southern Virginia Mental Health Institute Pharmacy	4815520	1336283423	N/A	382 Taylor Drive, Danville, VA 24541	Mitch Slattery	(434)-773-4216	434-773-4292
Western State Hospital Pharmacy	4811813	1114036902	N/A	1301 Richmond Avenue, Staunton, VA 24401	Kathy Wise	(540) 332-8200	540-332-8044
Southwestern Virginia Mental Health Institute Pharmacy	4838960	1144283094	010227500	340 Bagley Circle, Marion, VA 24354	Jim Suhrbier	(276) 783-1215	276-783-8993
Eastern State Hospital Pharmacy	4811659	1588764997	010230314	4601 Ironbound Road, Williamsburg, VA 23188-2652	Kim Griswold	(757) 253-5327	757-253-4521
Northern Virginia Mental Health Institute Pharmacy	4813021	1982735197	N/A	3302 Gallows Road, Falls Church, VA 22042	Mary Love	(703) 207-7218	703-645-3173
Piedmont Geriatric Hospital Pharmacy	4838972	1790813491	010227470	5001 E. Patrick Henry Highway, Burkeville, VA 23922	Dennis Darling	(434) 767-4922	434-767-4935

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Exhibit C

Intelligent Network

A. Overview. The Intelligent Network is a real-time electronic pharmacy claims transaction switching service.

B. Product Features. In connection with providing the Intelligent Network, RelayHealth shall do the following:

1. Provide all transaction processing and network services to transmit pharmacy claims directly and electronically, switching to Payers as required, in the communication protocol that is mutually agreed to between the Payer and RelayHealth.
2. Use commercially reasonable efforts to provide use of the RelayHealth communications network to DBHDS 24 hours a day, 7 days a week, except for scheduled maintenance periods.
3. Return Payer response messages to DBHDS on a real time basis.
4. Provide to Payers all captured DBHDS claims on a real-time basis as required by the Payer.
5. Provide monthly reports to DBHDS showing all of DBHDS' transaction activity for billing purposes.
6. Provide customer support and pre-implementation support services to designated DBHDS personnel.

Exhibit D

Pre and Post Editing Services

The RelayHealth Intelligent Network is a real-time electronic pharmacy claims transaction switching service. In connection with providing the RelayHealth Intelligent Network Prime – Elite Pre and Post Editing Services, RelayHealth perform the following edits:

1. Caremark Prescription Drug Program - (reject) Assists enrolled Caremark Pharmacies with the administrative complexities (compliance rules, patient counseling and physician follow-up requests) of changing "non-preferred" drug prescriptions to an alternative "preferred" performance drug, while monitoring the submitted Conflict, Intervention and Outcome codes to ensure the pharmacist submits the appropriate incentive payment codes for the PDP program.
2. NY Medicaid - Capture to Paid (Opt-in) - Reformats a "Captured" response from NY Medicaid to a "Paid" response and populates the appropriate NCPDP paid response fields.
3. DEA Authentication (reject) - Authenticates a Prescriber DEA number on a submitted claim, ensuring that the format algorithm is correct; the DEA number appears on the file and has a current effective date.
4. TX Medicaid Prescriber ID Authentication - (reject) Authenticates the Prescriber ID number on a submitted claim is valid for TX Medicaid claims.
5. Prescriber NPI Authentication - (reject) Authenticates a Prescriber NPI on a submitted claim to ensure the number is on the proprietary RelayHealth Prescriber file.
6. U & C Third Party Paid - (warn) Identifies when the submitted U&C equals the third-party amount paid.
7. Formulary Management - (reject) Assists the pharmacy in the identification of a payer's preferred product.
8. Quantity/Package Size Verification - (reject) Verifies that a submitted quantity is an appropriate multiple of the package size for a unit-of-use package, which includes items such as oral contraceptives, oral and nasal inhalers, steroidal and antibiotic dose packs, kits, pre-filled syringes and ophthalmic solutions.
9. U&C Market Comparison - (warn) Compares the submitted U&C price to historical, ZIP-specific market data.
10. NDC Validation - (reject) Identifies when a submitted drug has been discontinued/ become obsolete or if the NDC number has been replaced, indicates the replacement NDC number.
11. AWP Comparison – (Substitute) Compares the submitted Average Wholesale Price (AWP) to the most current AWP available. In cases where there is a difference, the edit will automatically substitute the current AWP on the claim so that the new (higher) AWP is submitted to the payer for reimbursement.
12. DAW Appropriateness for Multisource Brands – (Reject) Validates the appropriateness of a submitted DAW code when the submitted NDC number is classified as a multisource brand (i.e., brand name with a generic equivalent).
13. Paid at MAC – (warn) Assists in identifying when a third party payer has "MAC'd" the reimbursement to the pharmacy on a single or multi-source brand.
14. Medicare Verification – (warn) For primary claims submitted to a State Medicaid where the patient is > 65 years old (i.e., Medicare eligible), warn with instructions to submit to Medicare Part B or Medicare Part D.
15. Quantity/Days Supply Verification – (warn) Calculates daily dose based on quantity dispensed and days supply to help prevent third party audits, rejects, or inappropriate payments caused by an atypical daily dose being dispensed.

Exhibit E

**AWP Resubmission Service
(Report Option - Small Chain)**

Product Features. RelayHealth will capture DBHDS' participating transactions as they flow through the RelayHealth Intelligent Network and store the claim data in order to:

- Determine if and when there is a manufacturer AWP price change;
- Analyze the data to determine if a claim should be reported as a resubmission opportunity;
- Present to DBHDS resubmission opportunities in a report format so that DBHDS make take further action, if desired